D.B. CIVIL SPECIAL APPEAL(W)NO.337/2007

Karan Singh
Vs.
Ram Dayal & Ors.

DATE OF ORDER :: 19-03-2007

**HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA**
**HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ**

Shri R.P. Singh, for the appellant.

This appeal is directed against the order of the learned Single Judge dismissing the writ petition of the appellant. The appellant had filed the writ petition challenging the decision of the Debt Relief Court under the Rajasthan Relief of Agricultural Indebtedness Act, 1957 allowing the application of respondent no.1, Ram Dayal under Section 6 of the Act. The appellant had preferred revision against the said decision in the district Court under Section 17 of the Act which was dismissed. He challenged the validity of the said order too.

The Rajasthan Relief of Agricultural Indebtedness Act, 1957 was enacted to provide for the relief to agriculturists in the State from indebtedness. Section 6 of the Act lays down that any debtor who is liable for debts individually or jointly with another person, may file an application before the Debt Relief Court having jurisdiction in the area in which he ordinarily resides or earns his livelihood praying for

the determination of his debts.

The plaintiff-respondent no.1 filed application for recovery of sum of Rs.12,000/- which he claimed to have given on loan to the appellant with interest @ 1% per annum which according to him worked out to Rs.4320/- thus totalling Rs.16320/-. The appellant in his reply took the plea that he had delivered 25 mounds of mustard valued at Rs.5300( @ Rs.535 per quintal) in 1985 and another 20 mounds of mustard valued at Rs.5000/-(@ Rs. 625/- per quintal) in 1986 to the respondent. He also paid him Rs.3700/- in cash. Thus, the appellant in all paid Rs.14050/- to the respondent. The appellant stated that the respondent filed the application out of annoyance because the appellant started selling produce in open market rather than to the respondent at cheaper rate.

The application, filed on 31.10.1987, was dismissed by the Debt Relief Court on 25.8.1999. The respondent preferred revision before the district Judge, Alwar which was allowed on 3.8.2001 and the matter was remanded to the Debt Relief Court for fresh decision. On remand, by order dated 7.3.2003, the application was allowed. It was the turn of the appellant to file revision before the District Judge which was dismissed on 21.8.2006. He then filed writ petition challenging both the orders as mentioned above.

The thrust of the submission of counsel for the appellant was that the revisional Court declined to exercise jurisdiction vested in it by law as the learned Judge refused to go into the factual aspects. Counsel referred to statements of the appellant as well as his witness, Kajod, and submitted that the findings of the Debt Relief Court based on misreading of evidence constituted question of law and the revisional Court was competent to go into factual aspects. In support of the contention, reliance was placed on Modilal & Anr. Vs. Lrs of Chatra Ram & Ors., 2003(2)WLN 509.

Before proceeding further it may be mentioned that case of the appellant about delivery of 45 mounds of mustered in 1985 and 1986 in the manner stated above as also payment of Rs.3,700/- cash is not supported by any documentary evidence. When observation to this effect was made it was submitted that the appellant is an illiterate person and due lack of awareness, he did not insist on execution of any receipt/document by the respondent in token of acceptance of the mustard or cash.

We are not impressed by the submission. The appellant does not appear to be illiterate person and it is difficult to accept that even an illiterate person would deliver 45 mounds of mustard and also pay cash of Rs.3,700/- without insisting on receipt or document by

the person concerned.

Section 17 of the Act lays down that a person aggrieved by an order of a Debt Relief Court may apply to the District Court for revision of the order on any of the grounds:- (a) that the order is contrary to law; (b) that the court has exercised a jurisdiction not vested unit by law or has failed to exercise a jurisdiction vested in it by law: (c) that the intalments fixed under the sub-section (3) of section 11 are inquitable; but, subject to the orders of the District Court on such application and further subject to the provisions of section 18, the order of the Debt Relief Court shall be final.Section 18, it may be mentioned, provides for review of the orders of the Debt Relief Court or the District Court as the case may be.

On a plain reading of the Section 17, it is manifest that revision lies on limited grounds. The revisional court can interfere only where the order of district Court is contrary to law or where the Debt Relief Court had exercised a jurisdiction not vested unit by law or has failed to exercise a jurisdiction vested in it by law. In this case we are not concerned with the instalment part.

Having gone through the statements of the appellant himself and his witness and, also, the impugned order of the Debt Relief Court, we do not find any misreading of evidence. In the case of Modilal Vs. LRs of Chatra Ram (supra) the revisional authority had reversed the order of the Debt Relief Court on interpretation of document/pronote with a finding that it was not executed by the deceased Chatra Ram in favour of the petitioner. Interpretation of document involves mixed question of law and fact, and therefore the decision in Modilal does not lend any support to the appellant.

We are of the view that the dispute is concluded by concurrent findings of the Debt Relief Court and the Revisional Court and there was no scope for interference in writ jurisdiction. The learned Single Judge therefore did not commit any error in dismissing the writ petition.

The appeal is dismissed.

**[MOHAMMAD RAFIQ],J.** **[S.N.JHA],CJ.**

Praveen